



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2018-0397; FRL-9996-28-Region 3]**

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Basic Inspection and Maintenance Program Certification State Implementation Plan for the Baltimore Nonattainment Area Under the 2008 Ozone National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. This SIP revision satisfies a Clean Air Act (CAA) requirement for enactment of a vehicle emissions inspection and maintenance (I/M) program in the Baltimore area -- where ambient air quality has been classified by EPA as “Moderate” or higher nonattainment of federal ozone national ambient air quality standards (NAAQS) established in 2008 (hereafter referred to as the 2008 ozone NAAQS). The CAA requires states to demonstrate that any moderate ozone nonattainment area has adopted a basic I/M program (as defined by the CAA). In the event an I/M program was previously enacted to meet a prior NAAQS or other CAA requirement, the state must show that the enacted I/M program continues to meet applicable federal requirements for a basic I/M program. Maryland’s SIP revision that is the subject of this action pertains to CAA requirements for a basic I/M program in the Baltimore area for the 2008 ozone NAAQS. EPA is approving Maryland’s I/M program certification, in accordance with the requirements of the CAA.

**DATES:** This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2018-0397. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2176. Mr. Rehn can also be reached via electronic mail at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background and Purpose**

On March 19, 2019 (84 FR 9993), EPA published a notice of proposed rulemaking (NPRM) for the State of Maryland. In the NPRM, EPA proposed approval of Maryland's SIP revision certifying that the existing vehicle emission inspection program implemented in the Baltimore ozone nonattainment area satisfies the CAA requirement under section 182(b)(4) to adopt a vehicle inspection program in areas newly classified as moderate nonattainment under the 2008

ozone NAAQS. The rationale for EPA's proposed action on the State's I/M certification SIP was explained in the NPRM and will not be restated here. No adverse public comments were received on the NPRM; three supportive comments were received on the NPRM. The formal SIP revision [SIP #18-01] was submitted by Maryland on March 15, 2018.

## **II. Final Action**

EPA is approving the submitted motor vehicle I/M certification as a revision to the Maryland SIP for the Baltimore ozone nonattainment area.

## **III. Statutory and Executive Order Reviews**

### **A. General Requirements**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

### **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action to approve

Maryland's certification that the existing Baltimore vehicle emissions inspection program meets CAA requirements for a basic I/M program for the Baltimore ozone nonattainment area for the 2008 ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 25, 2019.

Cosmo Servidio,  
Regional Administrator,  
Region III.

40 CFR part 52 is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

### **Subpart V—Maryland**

2. In § 52.1070, the table in paragraph (e) is amended by adding an entry “Basic vehicle emission inspection and maintenance (I/M) program requirement certification for the 2008 ozone national ambient air quality standard” at the end of the table to read as follows:

#### **§ 52.1070 Identification of plan.**

\* \* \* \*

(e)\* \* \*

<b>Name of non-regulatory SIP revision</b>	<b>Applicable geographic area</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Additional explanation</b>
* * *	* *	* *		
Basic vehicle emission inspection and maintenance (I/M) program requirement certification for the 2008 ozone national ambient air quality standard	Baltimore	3/15/2018	<b><u>[Insert date of publication in the Federal Register],</u></b> <b><u>[Insert Federal Register citation]</u></b>	Certification that Maryland’s previously approved regulation at COMAR 11.14.08 meets the requirement for a basic I/M program in the Baltimore Area for the 2008 ozone NAAQS

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